

REMARKS

Claims 6-9 are pending in the present application.

The rejections of: (a) Claims 1 under 35 U.S.C. §102(b) over Gelfand et al and (b) Claims 3-5 under 35 U.S.C. §103(a) over Gelfand et al, are obviated by amendment.

Applicants make no statement with respect to the propriety of these grounds of rejection and in no way acquiesce to the same. Nonetheless, to expedite examination of this application, Claims 1 and 3-5 have been canceled herein and respectfully requested to be without prejudice toward presentation of the same in an ensuing application.

In view of the amendments herein, Applicants request withdrawal of these grounds of rejection.

The rejections of Claims 1 and 3-5 under 35 U.S.C. §112, first paragraph (written description and enablement), are obviated by amendment.

Applicants make no statement with respect to the propriety of these grounds of rejection and in no way acquiesce to the same. Nonetheless, to expedite examination of this application, Claims 1 and 3-5 have been canceled herein and respectfully requested to be without prejudice toward presentation of the same in an ensuing application.

In view of the amendments herein, Applicants request withdrawal of these grounds of rejection.

The rejection of Claims 8 and 9 under 35 U.S.C. §112, first paragraph (enablement) is traversed.

In regard to strain *E. coli* 505, VKPM B-8124, recited in the claims, Applicants submit that they have deposited this strain under the terms of the Budapest Treaty. Further, as identified at page 15, line 24 to page 16, line 2, the strain *E. coli* 505 has been deposited in the Russian National Collection of Industrial Microorganisms (VKPM) (Russia 113545, Moscow, 1 Dorozhny proezd, 1) on May 14, 2001 under accession numbers VKPM B-8124. This deposit was then converted to an international deposit under the provisions of the Budapest Treaty on February 1, 2002. The foregoing was evidenced by the Deposit Receipt filed on August 4, 2003

Applicants further state that all restrictions imposed by the depositor on the availability to the public of the deposited biological material will be irrevocably removed upon granting of a patent on this application.

Accordingly, the enablement requirements of 35 U.S.C. §112, first paragraph, have been fulfilled, and as such this ground of rejection should be withdrawn.

The objection to Claim 3 is believed to be obviated by amendment. Applicants have canceled Claim 3 and ensure that the Examiner's suggested amendment is made in pending Claim 9. As such, withdrawal of this ground of rejection is requested.

The objection to the specification is believed to be obviated by amendment. Applicants amended the specification on June 20, 2006, to address the specific criticisms raised by the Examiner. However, in the amendments filed on June 20, 2006, the first amended paragraph

was improperly labeled as to where said paragraph can be found in the specification. Therefore, to address this ground of objection and to ensure clarity in the prosecution history of the present application, the first two amended paragraphs from the response filed on June 20, 2006 have been repeated (including all modifications). In the present response these paragraphs are properly identified as beginning on page 7, line 6 and page 16, line 11, respectively.

Withdrawal of this ground of objection is requested.

Finally, with respect to withdrawn Claims 6 and 7, the Examiner is reminded that MPEP §821.04 states:

...if applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim will be rejoined.

Applicants note that should Claim 8 be found allowable, withdrawn process Claims 6 and 7 should be rejoined.

Applicants submit that the present application is in condition for allowance. Early notice to this effect is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



Stephen G. Baxter  
Attorney of Record  
Registration No. 32,884

Vincent K. Shier, Ph.D.  
Registration No. 50,552

Customer Number  
**22850**

Tel: (703) 413-3000  
Fax: (703) 413-2220  
(OSMMN 08/03)